

Message Text

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PAGE 01 GUATEM 03727 141850Z

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FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 6392

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SUBJ: SHIPPING LAW 26-77 PENDING FINAL CONGRESSIONAL APPROVAL

1. SUMMARY. SHIPPING LAW 26-77 HAS BEEN PREPARED BY THE CONGRESS. WHEN AND IF FINALLY APPROVED, POSSIBLY WITHIN TWO WEEKS, THE LAW WILL BE PASSED TO THE PRESIDENT. THE ROUGHT TRANSLATION WHICH FOLLOWS SHOULD PROVIDE A BASIS FOR EARLY ANALYSIS BY THE INTERESTED WASHINGTON AGENCIES. THE SPANISH VERSION AND AN UNOFFICIAL TRANSLATION ARE BEING FORWARDED BY AIRGRAM. END SUMMARY.

2. ART 1, FOLLOWING PREAMBLE, DEFINES NATIONAL COMPANIES AS THOSE OWNED BY THE GOG, OR THOSE WHICH ARE 75 PERCENT LOCALLY OWNED AND HAVE THEIR OWN SHIPS 2,000 TONS OR MORE.

3. AR 2. EXEMPTS NATIONAL COMPANIES FROM ANY TAXES ON IMPORTED BOATS OR ACCESSORIES FOR TEN YEARS.

4. ART 3. ESTABLISHES A TAX FOR TEN YEARS OF 6 PERCENT OF FREIGHT CHARGES FOR THE DEVELOPMENT OF THE NATIONAL MERCHANT MARINE. THIS IS PAYABLE BY ALL SHIPPING LINES, NATIONAL OR FOREIGN: (A) PAYMENT TO BE MADE TO THE BANK OF GUATEMALA; (B) 6 PERCENT RATE IS TO BE APPLIED TO THE COST OF FREIGHT
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 GUATEM 03727 141850Z

MANIFESTED AND STAMPED BY CUSTOMS; (C) COMPANIES WIHTOUT REPRESENTATION MUST PAY BEFORE UNLOADING; (D) WHEN IMPORTED ARTICLES ARE UNLOADED IN A NON-GUATEMALAN PORT AND ENTER BY LAND, PAYMENT MUST BE MADE TO THE BANK OF GUATEMALA AT THE CUSTOMS AGENCY, (E) WITHIN 15 DAYS, ALL COLLECTIONS ARE TO BE SENT TO CORFINA, THE CORPORACION FINANCIERA NACIONAL.

5. ART 4. EXCLUDES FROM THE 6 PERCENT TAX ALL TRANSPORT OF PETROLEUM, COMBUSTIBLES AND NATIONAL GAS.

6. ART 5. TREATS OF THE DISPOSITION BY CORFINA OF THE FUNDS OBTAINED.

7. ART 6. REQUIRES NATIONAL COMPANIES TO REGISTER WITH THE MINISTRY OF ECONOMY REGULAR ROUTES THEY SERVE AND PROVIDES THAT THE MINISTRY OF ECONOMY MUST ISSUE REGULATIONS FOR THE LAW.

8. AR 7. THE 6 PERCENT SURCHARGE IS TO BE APPLIED 60 DAYS FOLLOWING THE EFFECTIVE DATE OF THE LAW.

9. ART 8. STATE ENTITIES MUST IMPORT ON NATIONAL MARITIME OR AIR CARRIERS UNLESS THE IMPORTS ARE EXEMPTED BY REQUEST OF THE MINISTRY OF DEFENSE.

10. ART 9. IN ORDER TO BENEFIT FROM THE FISCAL INCENTIVES OF THE INDUSTRIAL DEVELOPMENT LAW AND THE CENTRAL AMERICAN FISCAL INCENTIVES AGREEMENT, ALL IMPORTATIONS TO THE COUNTRY EXONERATED FROM TAXES SHOULD UTILIZE NATIONAL MARITIME OR AIR TRANSPORT COMPANIES ONLY WITH THE EXCEPTIONS OF THE FOLLOWING ARTICLE.

11. ART 10. THE FOLLOWING ARE EXCEPTIONS TO THE PREVIOUS ARTICLE:

A. IMPORTS OF GOODS FROM CENTRAL AMERICAN COMMON MARKET UNCLASSIFIED

UNCLASSIFIED

PAGE 03 GUATEM 03727 141850Z

COUNTRIES:

B. IMPORTS REQUIRING SPECIAL EQUIPMENT ON THE IMPORTER'S VESSELS OR AIRCRAFT. THIS EXEMPTION CEASES TO HAVE EFFECT WHEN A NATIONAL CARRIER SHOWS IT CAN PROVIDE THE SERVICE;

C. THOSE CASES WHERE NATIONAL CARRIERS DO NOT PROVIDE REGULAR SERVICES IN THE PORTS OF LOADING;

D. THOSE CASES IN WHICH A DELAY IN SERVICE OF MORE THAN 12 DAYS WOULD BE CAUSED BY THE NEXT SERVICE OF A NATIONAL CARRIER;

E. THOSE CASES IN WHICH THE NATIONAL CARRIERS LACK SPECIAL HANDLING EQUIPMENT FOR BULK CARGO, OR SPECIAL CONTAINERS, OR IN SIMPLE PACKING THAT WOULD SVAE PACKING FOR EXPORTATION IN THE PLACE OF ORIGIN;

F. THOSE CASES IN WHICH THE MINISTRY OF ECONOMY PROVES THAT

THE USE OF NATIONAL CARRIERS WOULD HAVE INCREASED THE COST OF AGRICULTURAL OR INDUSTRIAL SUPPLIES;

G. WHEN THE NATIONAL COMPANIES ADVISE THE MINISTRY OF ECONOMY OF THEIR INABILITY TO PROVIDE THE NECESSARY SERVICE; AND

H. THE IMPORTS WHICH ARE EFFECTED THROUGH INTERNATIONAL TRANSPORT COMPANIES AUTHORIZED TO OPERATE IN GUATEMALA AND THAT DEAL WITH THE TRANSPORT AND EXPORT OF PERISHABLE CARGO OF GUATEMALAN ORIGIN, FOR SO LONG AS THE NATIONAL CARRIERS ARE UNABLE TO TRANSPORT PERISHABLE CARGOS. THIS EXCEPTION WILL END WHEN THE NATIONAL COMPANIES HAVE THE MEANS TO OFFER EQUAL SERVICES.

12. ART 11. STATES THAT TRANSPORT BY CONTAINER MUST PAY COMPENSATORY FEES FOR STEVEDORES.

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PAGE 04 GUATEM 03727 141850Z

13. ART 12. INDICATES THE MINISTRY OF ECONOMY HAS 60 DAYS IN WHICH TO PREPARE AND PUT OUT REGULATIONS.

14. ART 13. THESE DECREES ARE DEROGATED: 41-71, 57-73, AND 39-74.

15. ART 14. THE PRESENT LAW ENTERS INTO EFFECT 60 DAYS FOLLOWING PUBLICATION IN THE DIARIO OFICIAL. THE PRESENT LAW IS DATED JUNE 9, 1977.

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